

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ARALEZ PHARMACEUTICALS INC.;	§
ARALEZ PHARMACEUTICALS TRADING	§
DAC; ARALEZ PHARMACEUTICALS US	§
INC.; and POZEN INC.	§

Plaintiffs,

CASE NO. 2:17-CV-71-JRG-RSP

V.

TEVA PHARMACEUTICALS USA, INC.

Defendant.

STIPULATION OF DISMISSAL PURSUANT TO RULE 41(a)(1)(A)(ii)

IT IS HEREBY STIPULATED AND AGREED by and between the parties that, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii):

1. Defendant Teva Pharmaceuticals USA, Inc. (“Teva”) warrants and represents that, on October 4, 2017, Teva filed with the FDA a Patent Certification Amendment to ANDA No. 209791. In the Patent Certification Amendment, Teva converted its Paragraph IV Certifications pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) to Paragraph III Certifications pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(III) for U.S. Patent No. 6,926,907, U.S. Patent No. 8,206,741, U.S. Patent No. 9,364,439, and U.S. Patent No. 9,539,214 (the “patents-in-suit”).
2. Teva warrants and represents that it has not received any communication from the FDA objecting to the October 4, 2017 Patent Certification Amendment or otherwise indicating that the Patent Certification Amendment is deficient or ineffective in any respect.

3. Teva warrants and represents that, pursuant to the October 4, 2017 Patent Certification Amendment, it does not seek FDA approval to market in the United States any product under ANDA No. 209791 until after the expiration of the patents-in-suit.
4. Teva warrants and represents that it will not amend or change its Paragraph III Certifications concerning the patents-in-suit in ANDA No. 209791 to Paragraph IV Certifications without giving Aralez Pharmaceuticals Inc., Aralez Pharmaceuticals Trading DAC, Aralez Pharmaceuticals US Inc., and Pozen Inc. (“Aralez”) the required patent certification notices. *See* 21 U.S.C. § 355(b)(3). If Teva does convert any of its Paragraph III Certifications in ANDA No. 209791 to Paragraph IV Certifications, it will send a new patent certification notice to Aralez, and Aralez will have 45 days from receipt of the new notice to bring suit for patent infringement.
5. The above-captioned action is hereby dismissed without prejudice.
6. All claims and counterclaims by Plaintiffs Aralez and Defendant Teva against each other in this action are dismissed without prejudice.
7. Each party to bear its own costs, expenses and attorney’s fees.

Dated: October 27, 2017

Respectfully submitted, <u>/s/ Zachary L. Garrett w/permission Claire A. Henry</u> Dominick A. Conde N.Y. Bar No. 2388411 (<i>admitted PHV</i>) dconde@fchs.com (212) 218-2204 (telephone) Christopher P. Borello N.Y. Bar No. 4130225 (<i>admitted PHV</i>) cborello@fchs.com (212) 218-2574 (telephone)	Respectfully submitted, <u>/s/ Julie P. Bookbinder w/permission Claire A. Henry</u> Scott J. Bornstein Email: bornsteins@gtlaw.com Richard C. Pettus Email: pettusr@gtlaw.com Allan A. Kassenoff Email: kassenoffa@gtlaw.com Julie P. Bookbinder Email: bookbinderj@gtlaw.com
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on October 27, 2017.

/s/ Claire A. Henry